

would the General Assembly by law be able to authorize a local government to pass such a statute?

DELEGATE KEY: I mean would they be able to pass a law giving the local option just as section 5 does? That is what I think I mean. In other words, the proponents of the local school system would be included in the Constitution. I think we are interest in the local governments being able to put the referendum to the people, the kind of school board they wanted. Can this be done by general public law?

THE PRESIDENT: The question is not easy to answer, Delegate Key, and the Chair will give an answer to the extent that I fully understand your question with the understanding that any delegate may dispute what the Chairman says.

If the clause covered by Amendment No. 21 is deleted, the General Assembly would not have the power to enact local legislation in the field of education. The General Assembly would retain the power to enact public general laws in the field of education as in any other field and the General Assembly would retain the power to authorize a county on an individual basis to enact local laws in the field of education.

In other words, the authorization by the General Assembly to the counties would not have to be by general law. It could be on a county to county basis and if by local option this is what you mean, that is the option to the governing board in any county to act subject to such standards as the General Assembly may prescribe. Then the answer would be in the affirmative that the legislature notwithstanding the deletion of this clause would retain the power to enable the county to act in this field.

This is not the complete answer to the question and the most difficult part has to do with the decision of what is a public general law. I hesitate to get into it because it is a matter that has been the subject of so much dispute. I think it can say that a public general law must apply statewide, but that does not necessarily mean that the public general law must apply with absolute uniformity in every area of the state. To illustrate, the General Assembly always has the power of public general laws to classify. It may make a law that says such and such shall happen in cities over five hundred thousand and so forth.

I think that is as far as the Chair goes in its desire to comment. Does any other

delegate desire to speak in favor of the amendment?

Delegate Winslow.

DELEGATE WINSLOW: For whatever it is worth, I think that history should be kept straight. A few minutes ago Delegate Lord gave the impression that it was to be assumed that a majority of the Local Government Committee was not behind this amendment. I would suggest a reading of the list of sponsors numbering nine and to that list add one more of Local Government, namely, Winslow, means ten of the Committee in opposition to this provision of the Drafting Committee.

THE PRESIDENT: Delegate Frank Robey.

DELEGATE ROBEY: Mr. President, I would simply like to say that I share some of the grave doubts that Delegate Key spoke of a few minutes ago. As long as we have those doubts, I would urge the Convention to oppose Amendment No. 21 and retain the phrase pertaining to public education in the constitution.

Education is a state function. The power of the state legislature over public education should be plenary or complete. If we adopt this amendment, it simply will not be. The authority over schools and school affairs is a central power which should reside in the legislature of the State. It is for the lawmaking power to determine whether the authority shall be exercised by the State Board of Education or distributed to county or to city school systems.

As the power over schools is a legislative one, it is not exhausted by exercise. The legislature, having tried one plan, should not be precluded from trying another. It has a complete choice of methods and it should have the complete choice. They should be able to change the plans as often as they deem necessary or experient.

While here, I should direct my comments to two other areas. The basis of establishing school systems or districts or altering their boundaries should vary, but it is clear that the legislative branch of government should have this authority to create or alter school districts in the state.

It may not assign to them the same boundaries as counties. It may classify them on reasonable basis such as operation for the operation of various school laws. A school system or district is legally an agent of the State responsible for the state